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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

16 Cr. 692 (JMF)

5 IVARS OZOLS,

6 Defendant.

Plea

7 -----x
8 New York, N.Y.
9 October 22, 2018
4:18 p.m.

10 Before:

11 HON. JESSE M. FURMAN,

12 District Judge

13 APPEARANCES

14 GEOFFREY S. BERMAN

15 United States Attorney for the
16 Southern District of New York

17 BY: EMILY JOHNSON

DANIEL G. NESSIM

Assistant United States Attorneys

18 KRAMER, LEVIN , NAFTALIS & FRANKEL, LLP

19 Attorneys for Defendant

20 BY: DARREN A. LaVERNE, ESQ.

NOLAN J. ROBINSON, ESQ.

21 ALSO PRESENT: CHRISTINA FOX, Special Agent, FBI

22 ALSO PRESENT: ANDREW TARUTZ, Interpreter (Russian)

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(Case called)

THE DEPUTY CLERK: Counsel, please state your name for the record.

MS. JOHNSON: Good afternoon, your Honor. Emily Johnson and Daniel Nessim for the United States. And joining us at counsel table is Special Agent Christina Fox with the Federal Bureau of Investigation.

THE COURT: Good afternoon to you. I hope I didn't say anything that made Mr. Hellman take off.

MR. LaVERNE: Good afternoon, your Honor. Darren LaVerne for Mr. Ozols, and I have with me at counsel table Nolan Robinson, who is an attorney in our office.

THE COURT: Good afternoon to all of you as well. My apologies for the fact that you've had to wait so long. That last proceeding took a little longer than expected.

MR. LaVERNE: No worries.

THE COURT: All right. Mr. Ozols, we're joined here by a Russian language interpreter, I believe. Just to confirm before we proceed any further, are you able to understand the interpreter?

THE DEFENDANT: Yes.

THE COURT: All right. If at any point during this proceeding you have any trouble understanding either because of a language issue or because of the headphones or something, just let me know and we will take care of the problem right

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1 away. Understood?

2 THE DEFENDANT: Yes.

3 THE COURT: I have been advised that you wish to
4 change your plea and enter a plea of guilty to Count One of the
5 superseding indictment, S11 16 Cr. 692. Is that correct?

6 THE DEFENDANT: Yes, correct.

7 THE COURT: All right. And counsel, that is the
8 indictment on which Mr. Ozols had been arraigned, correct?

9 MR. LaVERNE: That is correct, your Honor.

10 THE COURT: All right. Now before I accept your
11 guilty plea, Mr. Ozols, I need to ask you certain questions to
12 ensure that you are pleading guilty because you are in fact
13 guilty and not for some other reason, to ensure that you
14 understand the rights that you would be giving up by pleading
15 guilty, and to ensure that you understand the potential
16 consequences of a guilty plea. If you do not understand any of
17 my questions, I want you to let me know right away so that we
18 can explain it to you more fully, and if at any point you wish
19 to speak with your lawyers, just let me know that and I will
20 give you however much time you wish to speak with them. Do you
21 understand all that?

22 THE DEFENDANT: Yes.

23 THE COURT: All right. I'll ask my deputy,
24 Ms. Smallman, to administer the oath to Mr. Ozols at this time.

25 (Defendant sworn)

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1 THE COURT: You may be seated.

2 You are now under oath, which means that if you answer
3 any of my questions falsely, you may be subject to prosecution
4 for the separate crime of perjury. Do you understand that?

5 THE DEFENDANT: I understand.

6 THE COURT: What is your full name?

7 THE DEFENDANT: Ivars Ozols.

8 THE COURT: And how old are you?

9 THE DEFENDANT: I'm 40.

10 THE COURT: How far did you go in school?

11 THE DEFENDANT: I went to college but I did not
12 complete it.

13 THE COURT: And where did you go to college?

14 THE DEFENDANT: Latvia.

15 THE COURT: Have you ever been treated or hospitalized
16 for any mental illness?

17 THE DEFENDANT: No, never.

18 THE COURT: Are you now or have you recently been
19 under the care of a doctor or a mental health professional?

20 THE DEFENDANT: No.

21 THE COURT: Have you ever been treated or hospitalized
22 for any addiction, including drug or alcohol addiction?

23 THE DEFENDANT: No.

24 THE COURT: In the last 48 hours have you taken any
25 drugs, medicine, pills, or had any alcohol?

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1 THE DEFENDANT: No.

2 THE COURT: Is your mind clear today?

3 THE DEFENDANT: Yes.

4 THE COURT: Do you understand what is happening here
5 today?

6 THE DEFENDANT: Yes.

7 THE COURT: Mr. LaVerne, have you discussed this
8 matter with Mr. Ozols, I assume?

9 MR. LaVERNE: I have, your Honor.

10 THE COURT: And in your judgment does he understand
11 the rights that he would be giving up by pleading guilty?

12 MR. LaVERNE: Yes, your Honor.

13 THE COURT: And in your judgment is he capable of
14 understanding the nature of these proceedings?

15 MR. LaVERNE: Yes.

16 THE COURT: Does either counsel have any doubt as to
17 the defendant's competence to plead guilty at this time?

18 MR. LaVERNE: No, your Honor.

19 MS. JOHNSON: No, your Honor.

20 THE COURT: Sorry. You said no as well?

21 MS. JOHNSON: No.

22 THE COURT: All right. On the basis of Mr. Ozols's
23 responses to my questions, my observations of his demeanor here
24 in court, and the representations of counsel, I find that he is
25 fully competent to enter an informed plea of guilty at this

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1 time.

2 Mr. Ozols, have you received a copy of the indictment
3 S11 16 Cr. 692 containing the charge to which you intend to
4 plead guilty?

5 THE DEFENDANT: Yes.

6 THE COURT: And did you read the charge to which you
7 intend to plead guilty?

8 THE DEFENDANT: Yes.

9 THE COURT: And was that in English or was it
10 translated for you into Russian or Latvian?

11 THE DEFENDANT: It was interpreted.

12 THE COURT: All right. Did you have enough time to
13 discuss the charge to which you are pleading guilty with your
14 lawyers and any possible defenses to that charge?

15 THE DEFENDANT: Yes.

16 THE COURT: And have your lawyers explained to you the
17 consequences of entering a guilty plea?

18 THE DEFENDANT: Yes.

19 THE COURT: Are you satisfied with their
20 representation of you?

21 THE DEFENDANT: Yes.

22 THE COURT: Now I have here a written Advice of Rights
23 form that you appear to have signed, along with the
24 interpreter, dated yesterday.

25 Is that correct, Mr. LaVerne?

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1 MR. LaVERNE: That is correct, your Honor.

2 THE COURT: All right. I'll mark this as Court
3 Exhibit 1 and provide it to the government to retain in its
4 possession.

5 Mr. Ozols, I'm showing you the second page where you
6 appear to have signed. Is that your signature there?

7 THE DEFENDANT: Yes.

8 THE COURT: And you signed that yesterday with the
9 assistance of an interpreter, is that correct?

10 THE DEFENDANT: Yes.

11 THE COURT: And before you signed it was it
12 interpreted to you in a language that you understand?

13 THE DEFENDANT: Yes.

14 MR. LaVERNE: Your Honor, for the record, the form was
15 translated into Russian, in paper form, and provided to
16 Mr. Ozols.

17 THE COURT: All right. Thank you. And that was done
18 by someone who speaks Russian, I assume?

19 MR. LaVERNE: Yes, it was a certified court
20 interpreter.

21 THE COURT: Thank you.

22 And before you signed it, Mr. Ozols, did you discuss
23 it with your lawyers?

24 THE DEFENDANT: Yes.

25 THE COURT: And did they explain it to you and answer

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1 any questions you may have had about the form before you signed
2 it?

3 THE DEFENDANT: Yes.

4 THE COURT: All right. Now I'm going to go over many
5 of the same things with you orally just to ensure that you
6 understand the consequences of what you are doing. Again, if
7 there's anything you do not understand, please let me know
8 right away.

9 Under the Constitution and laws of the United States,
10 you have the right to plead not guilty to the charges in the
11 indictment. Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: If you did plead not guilty, you would be
14 entitled to a speedy and public trial by a jury on the charges
15 in the indictment. Do you understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: At that trial you would be presumed to be
18 innocent and you would not have to prove that you were
19 innocent. Instead, the government would be required to prove
20 your guilt by competent evidence beyond a reasonable doubt
21 before the jury could find you guilty. Do you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: In order to find you guilty, a jury of 12
24 people would have to agree unanimously that you were guilty.
25 Do you understand that?

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1 THE DEFENDANT: Yes.

2 THE COURT: At that trial and at every stage of your
3 case, you would be entitled to the assistance of a lawyer, and
4 if you could not afford a lawyer, one would be appointed at
5 public expense free of cost to represent you. Do you
6 understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: During a trial, the witnesses for the
9 government would have to come to court and testify in your
10 presence, and your lawyers would have an opportunity to
11 cross-examine those witnesses and object to any evidence
12 offered against you by the government. You would also have an
13 opportunity to introduce evidence in your own defense, and you
14 would have the right to have subpoenas issued or other process
15 used to compel witnesses to come to court and testify in your
16 defense. Do you understand all that?

17 THE DEFENDANT: Yes.

18 THE COURT: At a trial, you would have the right to
19 testify in your own defense as well, but you would have the
20 right not to testify also, and if you chose not to testify,
21 then no one, including the jury, could draw any inference or
22 suggestion of guilt from the fact that you did not testify. Do
23 you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: Before trial, you would have an

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1 opportunity, if you have not waived it, to seek suppression or
2 exclusion of the evidence that the government were to use
3 against you at a trial. Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: If you were convicted at a trial, you
6 would have the right to appeal that verdict and any pretrial
7 rulings that I made in connection with your case. Do you
8 understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: If you plead guilty, you will also have to
11 give up your right not to incriminate yourself because I may
12 ask you questions about what you did in order to satisfy myself
13 that you are guilty as charged, and you will have to admit and
14 acknowledge your guilt. Do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: If you plead guilty and if I accept your
17 guilty plea, you will give up your right to a trial and the
18 other rights that we have discussed, other than your right to a
19 lawyer, which you keep whether or not you plead guilty, but
20 there will be no trial and I will enter a judgment of guilty
21 and sentence you on the basis of your plea after I have
22 considered the presentence report prepared by the United States
23 Probation Department and any submissions that I get from the
24 lawyers. There will be no appeal with respect to whether you
25 did or did not commit the offense to which you're pleading

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1 guilty or with respect to whether the government could use the
2 evidence that it has against you. Do you understand all that?

3 THE DEFENDANT: Yes.

4 THE COURT: Even now as you are entering this plea,
5 you have the right to change your mind, to plead not guilty,
6 and to go to trial on the charges in the indictment. Do you
7 understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you understand each and every one of
10 the rights that I have explained to you?

11 THE DEFENDANT: Yes.

12 THE COURT: And are you willing to give up your right
13 to a trial and the other rights that we have discussed?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you understand that you are charged in
16 Count One of the indictment with conspiracy to commit bank and
17 wire fraud, in violation of Title 18 United States Code
18 Section 1349? Do you understand that that is the charge?

19 THE DEFENDANT: Yes.

20 THE COURT: Ms. Johnson, would you please state the
21 elements of that offense.

22 MS. JOHNSON: Yes, your Honor. First, the government
23 would have to prove beyond a reasonable doubt that there was
24 an --

25 THE INTERPRETER: Could you speak up, please.

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1 MS. JOHNSON: Certainly.

2 The government would have to prove beyond a reasonable
3 doubt that there was an unlawful agreement between two or more
4 people, the unlawful objective of that agreement being to
5 commit bank or wire fraud.

6 And second, the government would have to prove beyond
7 a reasonable doubt that the defendant knowingly and wilfully
8 entered into that agreement.

9 With respect to the conspiracy count, the government
10 would not have to prove that the substantive crime of bank or
11 wire fraud were in fact committed but rather that they were the
12 objective of the conspiracy.

13 The elements of bank fraud are:

14 First, that there was a scheme or artifice to defraud
15 or to obtain money or property in the custody of a bank;

16 Second, that the defendant participated in that scheme
17 with intent to defraud; and

18 Third, that the bank was insured by the Federal
19 Deposit Insurance Corporation.

20 The elements of wire fraud are:

21 First, that there was a scheme or artifice to defraud
22 or to obtain property by false pretenses;

23 Second, that the defendant participated in that scheme
24 with intent to defraud; and

25 Third, that there was the use of interstate wires in

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1 furtherance of the fraud.

2 And finally, the government would have to prove by a
3 preponderance of the evidence that the venue is proper in the
4 Southern District of New York.

5 THE COURT: Thank you.

6 Mr. Ozols, do you understand that with the exception
7 of the venue requirement that Ms. Johnson mentioned at the very
8 end, as to which the government's burden at a trial would be a
9 preponderance of the evidence, that with that exception, that
10 the government would have to prove the other elements, the
11 other two elements that Ms. Johnson mentioned at the beginning,
12 beyond a reasonable doubt before a jury could find you guilty
13 of Count One? Do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: Let me tell you now about the maximum
16 possible penalties for this crime. By maximum, I mean the most
17 that could possibly be imposed upon you. It doesn't
18 necessarily mean that that is the sentence that you would
19 receive, but you do have to understand that by pleading guilty,
20 you are exposing yourself to a combination of punishments up to
21 the statutory maximum. Do you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: First, let me tell you about the possible
24 restrictions on your liberty.

25 The maximum term of imprisonment for this crime is 30

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1 years in prison, which could be followed by up to three years
2 of supervised release.

3 Supervised release means that you would be subject to
4 supervision by the probation department. There would be rules
5 of supervised release that you would be required to follow, and
6 if you violated any of those rules, you could be returned to
7 prison to serve additional time without credit for the time
8 spent on your underlying sentence or credit for time spent on
9 postrelease supervision. And you could be returned to prison
10 without a jury trial as well. Do you understand all that?

11 THE DEFENDANT: Yes.

12 THE COURT: You should understand that there is no
13 parole in the federal system in this country, which means that
14 if you were sentenced to prison, you would not be released
15 early on parole. There is a limited opportunity to earn credit
16 for good behavior, but if you were sentenced to prison, you
17 would have to serve at least 85 percent of the time to which
18 you were sentenced. Do you understand that?

19 THE DEFENDANT: Yes.

20 THE COURT: In addition to those restrictions on your
21 liberty, you should understand that there are certain financial
22 penalties that are part of the maximum possible sentence:

23 First, the maximum allowable fine is the greatest of
24 \$1 million, twice the gross pecuniary or financial gain derived
25 from the offense, or twice the gross pecuniary or financial

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1 loss to someone other than you as a result of the offense;

2 Second, I can order restitution to any person or
3 entity injured as a result of your criminal conduct;

4 Third, I may order you to forfeit all property derived
5 from the offense or used to facilitate the offense; and

6 Finally, I must order a mandatory special assessment
7 of \$100.

8 Do you understand those are the maximum possible
9 penalties?

10 THE DEFENDANT: Yes.

11 THE COURT: And I understand that in this case you do
12 admit to the forfeiture allegation with respect to Count One of
13 the superseding indictment and agree to forfeit to the United
14 States a sum of \$234,522 in United States currency. Is that
15 correct?

16 THE DEFENDANT: Yes.

17 THE COURT: All right. Now do you understand that
18 what I just listed, that those are the maximum possible
19 penalties?

20 THE DEFENDANT: Yes.

21 THE COURT: Am I correct that you are not a citizen of
22 the United States? Is that correct, Mr. Ozols?

23 THE DEFENDANT: Yes you understand correctly.

24 THE COURT: All right. Do you understand that by
25 pleading guilty, there may be negative or adverse effects on

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1 your immigration status in this country? For example, you may
2 be detained by the immigration authorities following the
3 completion of your criminal sentence, you may be removed or
4 deported from the United States, you may be denied admission to
5 the United States in the future, and you may be denied
6 citizenship in the United States. Do you understand that those
7 are among the negative consequences of a guilty plea?

8 THE DEFENDANT: Yes.

9 THE COURT: And have you discussed the immigration
10 consequences of a guilty plea with your lawyers?

11 THE DEFENDANT: Not yet.

12 THE COURT: All right. Would you like an opportunity
13 to do so now.

14 MR. LaVERNE: Your Honor, I'm sorry. Can I have just
15 a moment just to clarify something with him.

16 THE COURT: Sure.

17 (Mr. LaVerne conferring with the defendant)

18 MR. LaVERNE: Your Honor, and Mr. Ozols can confirm
19 this, but we did discuss the likely consequences of a guilty
20 plea with respect to immigration. I think he was just confused
21 as to what you were asking, if we had some further discussions
22 about immigration beyond that.

23 THE COURT: All right. Understood. Let me ask again.

24 Is it correct, Mr. Ozols, that you did discuss with
25 your lawyers the potential consequences of a guilty plea on

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1 your immigration status?

2 THE DEFENDANT: Yes, yes, that I would be deported.

3 THE COURT: All right. Do you understand that as a
4 result of your guilty plea, you may also lose certain valuable
5 rights in this country, to the extent that you have them or
6 could otherwise obtain them, such as the right to vote, the
7 right to serve on a jury, the right to hold public office, and
8 the right to possess any kind of firearm? Do you understand
9 that?

10 THE DEFENDANT: Yes, I understand.

11 THE COURT: Are you serving any other sentence at this
12 time?

13 THE DEFENDANT: No.

14 THE COURT: And are you being prosecuted in any other
15 court at this time?

16 THE DEFENDANT: No.

17 THE COURT: Do you understand that if your lawyer or
18 anyone else has attempted to predict what your sentence will be
19 in this case that their predictions could be wrong?

20 THE DEFENDANT: I understand.

21 THE COURT: It's important to understand that no
22 one -- not your lawyers, not the lawyers for the government --
23 no one can give you any promise or assurance about what your
24 sentence will be in this case, and that is because your
25 sentence will be determined by me and by me alone, and I'm not

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1 going to do that today. Instead I will wait until I receive
2 the presentence report that I mentioned earlier, I will do my
3 own calculation of how the United States Sentencing Guidelines
4 apply to your case, I will consider any submissions that I get
5 from the lawyers and ultimately the factors that govern
6 sentencing in a statute, Title 18 United States Code
7 Section 3553. Do you understand all that?

8 THE DEFENDANT: I understand.

9 THE COURT: And have you discussed that process, the
10 sentencing process, with your lawyers?

11 THE DEFENDANT: Yes.

12 THE COURT: Now even if your sentence is different
13 from what your lawyers or anyone else has told you that it
14 might be, even if it is different from what you expect or hope
15 it to be, and even if it is different from what may be in the
16 plea agreement, which we will discuss in one moment, you will
17 still be bound by your guilty plea and you will not be allowed
18 to withdraw your plea. Do you understand that?

19 THE DEFENDANT: Yes.

20 THE COURT: Now I understand that there is a written
21 plea agreement between you and your lawyer and the lawyers for
22 the government. Is that correct?

23 THE DEFENDANT: Yes.

24 THE COURT: I have the written original letter plea
25 agreement here dated October 16, 2018, from Assistant United

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1 States Attorneys Matthew Hellman and others to your lawyer,
2 Mr. LaVerne. I'll mark this as Court Exhibit 2 and provide it
3 to the government to retain in its possession after this
4 proceeding.

5 Turning to the last page, you appear to have signed
6 the last page dated today, October 22nd. Is that your
7 signature there on that last page?

8 THE DEFENDANT: Yes.

9 THE COURT: Before you signed the plea agreement was
10 it translated for you into a language that you understand?

11 THE DEFENDANT: Yes.

12 MR. LaVERNE: Again, your Honor, he was provided -- a
13 written translation in Russian was provided to Mr. Ozols.

14 THE COURT: All right. So did you read that Russian
15 translation of the plea agreement, Mr. Ozols?

16 THE DEFENDANT: Yes.

17 THE COURT: And before you signed it did you discuss
18 it with your lawyers as well?

19 THE DEFENDANT: Yes.

20 THE COURT: Before you signed it did they explain it
21 to you and answer any questions that you may have had about the
22 plea agreement?

23 THE DEFENDANT: Yes.

24 THE COURT: And before you signed it did you fully
25 understand the plea agreement?

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1 THE DEFENDANT: Yes.

2 THE COURT: All right. Counsel, I understand that
3 there was a typographical error in the consent preliminary
4 order of forfeiture, a copy of which is attached to the plea
5 agreement -- namely, that in paragraph 1, it should read
6 \$234,000, not 243,000; 234 being the number above and also the
7 number in the plea agreement. Is that correct?

8 MS. JOHNSON: Yes, that's correct.

9 MR. LaVERNE: That is correct, your Honor.

10 THE COURT: All right. And I think while that
11 correction was made and initialed by counsel in the copy of the
12 proposed order for me to sign, I think it wasn't made in the
13 copy attached to the plea agreement that I marked as Court
14 Exhibit 2, and I will provide it to the government to retain in
15 its possession. So I have made that change to the version
16 attached to the plea agreement and marked it with my initials
17 and today's date as well.

18 One of the features of your agreement, Mr. Ozols, is
19 that you have agreed with the government as to how the
20 Sentencing Guidelines apply to your case. Is that correct?

21 THE DEFENDANT: Yes.

22 THE COURT: You should understand that that agreement
23 is binding on you and it is binding on the government, but it
24 is not binding on me. I have my own independent obligation to
25 determine how the Sentencing Guidelines apply to your case.

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1 I'm not suggesting that I will come up with a different
2 calculation than the one to which you have agreed, but I could,
3 and even if I did, you would still be bound by your guilty
4 plea, and you would not be allowed to withdraw your plea. Do
5 you understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: Another feature of your agreement is that
8 you have agreed to waive or give up your right to appeal or
9 challenge any sentence that is within or below the Sentencing
10 Guidelines range of 41 to 51 months in prison. That means that
11 if I sentenced you to 51 months' imprisonment or anything less
12 than 51 months' imprisonment, that you would have no right to
13 appeal or otherwise challenge that sentence. Do you understand
14 that?

15 THE DEFENDANT: Yes.

16 THE COURT: Does this written plea agreement
17 constitute your complete and total understanding of the entire
18 agreement between you and the government?

19 THE DEFENDANT: Yes.

20 THE COURT: Has anything been left out of this written
21 plea agreement?

22 THE DEFENDANT: Nothing.

23 THE COURT: Other than what is written in this plea
24 agreement, has anyone made any promise to you or offered you
25 any inducement either to plead guilty or to sign the plea

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1 agreement?

2 THE DEFENDANT: No.

3 THE COURT: Has anyone threatened you or forced you to
4 plead guilty or to sign the plea agreement?

5 THE DEFENDANT: No.

6 THE COURT: Has anyone made a promise to you as to
7 what your sentence will be?

8 THE DEFENDANT: Nobody.

9 THE COURT: Mr. Ozols, I'd like you now to tell me in
10 your own words what you did that makes you believe that you are
11 guilty of the crime charged in the superseding indictment.

12 MR. LaVERNE: Your Honor, we've prepared a written
13 allocution that we've gone over with Mr. Ozols several times.

14 THE COURT: All right. You may proceed. Just please
15 proceed and speak slowly and clearly so that everybody can
16 understand.

17 THE DEFENDANT: Approximately in June 2017, I agreed
18 to come to the United States of America with the aim of opening
19 banking accounts and to withdraw money. That was accomplished,
20 subject to requests made by other individuals. And that was
21 done in banks in the state of Florida. I knew that it was, so
22 to say, incorrect, incorrect or false information, and that
23 this money was stolen from other individuals. They were
24 transferred to these accounts and I was withdrawing this money.
25 This is the end of my statement.

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1 THE COURT: All right. Let me just confirm a couple
2 things.

3 Is it the case that the bank accounts to which you
4 referred, that they were opened using false or fraudulent
5 documents?

6 THE DEFENDANT: Those were documents of companies and
7 firms.

8 MR. LaVERNE: Your Honor, I think Mr. Ozols -- and
9 again, you should confirm it with him, but I think he would
10 allocute that he provided certain false information to the
11 banks in order to retrieve funds from those bank accounts.

12 THE COURT: All right. Is it the case, Mr. Ozols,
13 that you provided false information to the banks in order to
14 get the money from these bank accounts that you described?

15 THE DEFENDANT: Yes.

16 THE COURT: And did you do that in order to obtain
17 money to which you knew you were not legally entitled?

18 THE DEFENDANT: Yes.

19 THE COURT: And did you understand that that money
20 that was obtained was acquired by means of fraud?

21 THE DEFENDANT: Yes.

22 THE COURT: All right. Mr. LaVerne, any disputes that
23 the banks involved here were insured by the FDIC?

24 MR. LaVERNE: No, your Honor.

25 THE COURT: And Ms. Johnson, can you state what the

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1 basis for venue is here. Is it the acts of co-conspirators
2 here in New York?

3 MS. JOHNSON: Yes. The co-conspirators opened a bank
4 account at a branch in New York in the name of a shell
5 corporation that was controlled by the conspiracy and utilized
6 by the conspiracy, and wires began and terminated in the
7 Southern District of New York.

8 THE COURT: All right. Any dispute on that score,
9 Mr. LaVerne?

10 MR. LaVERNE: No, your Honor.

11 THE COURT: All right. Mr. Ozols, when you did these
12 things, first of all, did you understand and know that the
13 object of the agreement that you had with others was to obtain
14 money from a bank to which you were not entitled and to do so
15 by means of false or fraudulent information?

16 THE DEFENDANT: Yes.

17 THE COURT: All right. And did you understand and
18 know that what you were doing was wrong and against the law?

19 THE DEFENDANT: Yes.

20 THE COURT: Mr. LaVerne, are you aware of any valid
21 defense that would prevail at trial or do you know of any
22 reason that Mr. Ozols should not be permitted to plead guilty?

23 MR. LaVERNE: I do not, your Honor.

24 THE COURT: Ms. Johnson, would you please proffer
25 briefly what the government's evidence would be if the

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1 defendant were to go to trial and what it would show.

2 MS. JOHNSON: Yes, your Honor. The government would
3 present witness testimony from bank employees, law enforcement,
4 and victims. The government would also present testimony from
5 cooperating witnesses who are members of the conspiracy. The
6 government would offer documentary evidence in the form of bank
7 statements, account opening records, incorporation records,
8 other financial records, and surveillance images, as well as
9 electronic evidence, including phone evidence from other
10 members of the conspiracy.

11 THE COURT: All right. And are there any additional
12 questions that you'd like me to ask of Mr. Ozols?

13 MS. JOHNSON: We believe it's implicit in his
14 allocution, but we just want to confirm that he agreed with
15 other individuals to undertake these actions.

16 THE COURT: All right. I think I also said something
17 to that effect in one of the questions before, but out of an
18 abundance of caution:

19 Mr. Ozols, my understanding is that what you described
20 earlier in the things that you did in this case, that you did
21 those in connection with other people who were participants in
22 these crimes, is that correct?

23 THE DEFENDANT: Yes.

24 THE COURT: All right. And you jointly agreed with
25 those people to commit the crimes that you've described, is

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1 that correct?

2 THE DEFENDANT: Yes.

3 THE COURT: All right. Do both counsel agree that
4 there is a sufficient factual basis for a guilty plea to Count
5 One of the superseding indictment?

6 MR. LaVERNE: Yes, your Honor.

7 MS. JOHNSON: Yes, your Honor.

8 THE COURT: Does either counsel know of any reason
9 that I should not accept the defendant's plea of guilty?

10 MR. LaVERNE: No, your Honor.

11 MS. JOHNSON: No, your Honor.

12 THE COURT: Mr. Ozols, because you acknowledge that
13 you are in fact guilty as charged in Count One of the
14 indictment, because I am satisfied that you know of your
15 rights, including your right to go to trial, that you are aware
16 of the consequences of your plea, including the sentence that
17 may be imposed, and because I find that you are knowingly and
18 voluntarily pleading guilty, I accept your guilty plea and
19 enter a judgment of guilty on Count One of the superseding
20 indictment, S11 16 Cr. 692.

21 The probation department will want to interview you in
22 connection with the presentence report that it will be
23 preparing. It is critical that anything you say to the
24 probation department in that interview is truthful and
25 accurate. That report is important to me in deciding what to

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1 sentence you to, and before sentencing, you and your lawyers
2 will have an opportunity to review the report. I would urge
3 you to review it with care, and if you find any mistakes in the
4 report or anything that you wish to bring to my attention in
5 connection with sentencing that you share that with the lawyers
6 so that they can bring it to my attention in the most
7 appropriate fashion. Do you understand all that?

8 THE DEFENDANT: Yes.

9 THE COURT: Mr. LaVerne, do you wish to be present in
10 connection with any interview?

11 MR. LaVERNE: Yes, your Honor.

12 THE COURT: I'll order that no interview take place
13 unless counsel is present.

14 Sentencing will be set for February 5, 2019, at 3:45
15 in the afternoon.

16 I direct the government to provide the probation
17 department with its factual statement of the offense within
18 seven days; defense counsel must arrange for the defendant to
19 be interviewed by probation within the next two weeks.

20 In accordance with my individual rules and practices
21 for criminal cases, defense submissions for sentencing are due
22 two weeks prior to sentencing; the government's submission is
23 due one week prior to sentencing. In the unlikely event that
24 you don't submit any substantive sentencing submissions, you
25 should file a letter to that effect so that we know.

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1 I do have here a consent preliminary order of
2 forfeiture that appears to have been signed by the defendant
3 and counsel dated today, October 22nd. Any objection,
4 Mr. LaVerne, to my signing and docketing that order?

5 MR. LaVERNE: No, your Honor.

6 THE COURT: All right. I will do so.

7 And anything else?

8 MR. LaVERNE: No. Thank you.

9 MS. JOHNSON: Nothing from the government.

10 THE COURT: All right. In that case, I thank
11 everybody for their patience, and we are adjourned. Thank you.

12 THE DEPUTY CLERK: All rise.

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